

CONSTITUTION - PART 3 - RESPONSIBILITY FOR FUNCTIONS

(Last revised October 2014)

General Limitations – Council Functions

General limitations on the exercise of delegated powers by Committees Sub-Committees or officers acting under delegations from Council under s101 of the Local Government Act 1972 as amended, apply as follows:-

- (i) delegated powers must be exercised in conformity with this Constitution and with any other directions of the Council.
- (ii) the Urgency Committee has powers to act contrary to or not in conformity with the policy framework and outside the budget framework in the circumstances described at 2(b) below, but otherwise must act in accordance with this Constitution and any other directions of the Council.
- (iii) for the period between the local elections and the Annual Meeting of the Council provided they are still elected councillors, any consultations required under the arrangements in this Constitution with chairs, or in their absence vice-chairs, should be with those persons who were chairs and vice-chairs of committees or sub-committees at the time of the election:
- (iv) Committees and Sub-Committees may not arrange further general delegation of the powers granted to them by Council but they may delegate an individual decision or task to a Sub-Committee or Officer where this is expedient.

These general limitations apply to all persons and bodies exercising delegated powers in respect of Council functions set out in sections 1, 2 and 4 of this Part of the Constitution.

General Limitations – Executive Functions

Executive functions delegated under s15, 19 or 20 of the Local Government Act 2000 must be exercised in accordance with the Council's policy and budget framework subject to any discretions permitted by, and within any limitations imposed by, the Executive Procedure Rules.

These general limitations apply to persons and bodies exercising delegated powers in respect of executive functions set out in sections 1, 3 and 4 of this Part of the Constitution.

1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision making body and Membership	Delegation of Functions
<p>1. <u>Local Act Functions</u></p> <p>Harrogate Stray Act 1985</p> <p>Harrogate Borough Council Act 1986</p>	<p>Executive - 7 elected Members</p> <p>Executive - 7 elected Members</p>	<p>Cabinet Member for Environment, Transport & External Affairs subject to restrictions set out in the Executive Procedure Rules.</p>
<p>2. Determination of an appeal against any decision made by or on behalf of the authority.</p> <p>(i) generally</p> <p>(ii) Officer appeals:-</p> <ul style="list-style-type: none"> - against dismissal - grievances - other disciplinary procedures - job evaluation <p>(iii) Housing & Council Tax Benefit appeals</p> <p>iv) planning and related appeals</p> <p>(v) other appeals</p>	<p>Most appeals against decisions do not lie to a body within the Council</p> <p>Licensing Committee - Appeals panels - 3 Members.</p> <p>Human Resources Committee – Employment Panel - 3 elected Members</p> <p>Human Resources Committee - Job Evaluation Appeals Board - 2 elected Members</p> <p>By law to tribunal independent of the Council</p> <p>By law to Secretary of State</p> <p>By law to Magistrates' or County Courts</p>	<p>Appeals to these panels are indicated where appropriate in the Scheme of Delegation to Officers. The panels have full delegation.</p> <p>Full delegation.</p> <p>Full delegation.</p>

Function	Decision making body and Membership	Delegation of Functions
3. Conducting best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 of the Local Government Act 1999.	Executive - 7 elected Members	To individual Cabinet Members and Officers subject to the Executive Procedure Rules and to Overview and Scrutiny Commissions' active role in review.
4. Functions in relation to contaminated land.	Executive - 7 elected Members	Cabinet Member Public Protection and Rural Affairs - subject to restrictions set out in the Executive Procedure Rules
5. The discharge of functions relating to the control of pollution and the management of air quality	Executive - 7 elected Members	Cabinet Member Public Protection and Rural Affairs - subject to restrictions set out in the Executive Procedure Rules.
6. Service of an abatement notice in respect of statutory nuisance.	Executive - 7 elected Members	Director of Corporate Affairs and Director of Economy, Environment and Housing under General Scheme of Delegation to Officers - Executive Functions.
7. Passing of a resolution under section 8 that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the authority's area.	Executive - 7 elected Members	Director of Corporate Affairs under General Scheme of Delegation to Officers - Executive Functions.
8. Inspection of the authority's area to detect statutory nuisances.	Executive - 7 elected Members	Director of Corporate Affairs and Director of Economy, Environment and Housing under General Scheme of Delegation to Officers - Executive Functions.
9. Investigation of any complaint as to the existence of a statutory nuisance.	Executive - 7 elected Members	Director of Corporate Affairs and Director of Economy, Environment and Housing under General Scheme of Delegation to Officers - Executive Functions.

Function	Decision making body and Membership	Delegation of Functions
10. Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council function	Executive Officer Development Management and Building Control and Head of Legal and Governance under General Scheme of Delegation to Officers - Council Functions.
11. Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976.	Executive and Council functions depending on responsibility for the function for which the information is needed	Full delegation under the General Schemes of Delegation to Officers - Council Functions and Executive Functions:- Head of Legal and Governance - generally. Director of Corporate Affairs and Director of Economy, Environment and Housing - in respect of Health and Housing functions only.
12. Appointment of any individual:- (a) to any office other than an office in which they are employed by the authority; (b) to any body other than (i) the authority; (ii) a joint committee of two or more authorities (c) any committee or sub-committee, of such a body; and (d) the revocation of any such appointment	General Purposes Committee - 12 elected Members “ “ “ “	Full delegation. “ “ “ “